UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

REPLY TO THE ATTENTION OF:

C-14J

December 21, 2012

BY ELECTRONIC MAIL
AND U.S. MAIL
Mr. Paul Nowicki
BNSF, Inc.
547 West Jackson Boulevard, Suite 1509
Chicago, Illinois 60661

    Re: Request for Consent to Access to property adjacent to 947 West Cullerton
            Avenue, Chicago, Illinois

Dear Mr. Nowicki:

       I write pursuant to an electronic mail message by Mr. Steven Faryan of the United States
Environmental Protection Agency (U.S. EPA) Region 5 Superfund Division, a hard copy of
which is attached, in which he requested access to certain real property located adjacent to 947
West Cullerton Avenue near the intersection with South Sangamon in Chicago, Illinois, and
owned by BNSF. This request is made pursuant to the authority granted in Section 104(e)(3) and
(4) of the Comprehensive Environmental Response, Compensation, and Liability Act, as
amended (CERCLA), 42 U.S.C. § 9604(e)(3) and (4). Our review indicates that BNSF is the
owner of record of the property, which generally appears to be a railroad corridor operated by the
former Chicago, Burlington & Quincy Railroad. Our purpose in entering the property is to
evaluate the extent of contamination from activities at the adjacent, former Loewenthal Metals
Company facility, and determine the scope of a response action under CERCLA. In this respect,
U.S. EPA has received information from the Illinois Environmental Protection Agency
suggesting elevated levels of metals may be present in soils at this location.

We would like to enter the railroad corridor for assessment purposes as soon as possible, weather
conditions permitting. We would reserve the authority to photograph the property and engage in
soil sampling. If samples are taken, we would provide you with a receipt and an opportunity to
take split samples.

       While Section 104(e) of CERCLA authorizes U.S. EPA to enter, at reasonable times,
private property to which hazardous substances, pollutants or contaminants may have been
released, it is our policy first to seek the owner's consent to entry. Accordingly, enclosed is a
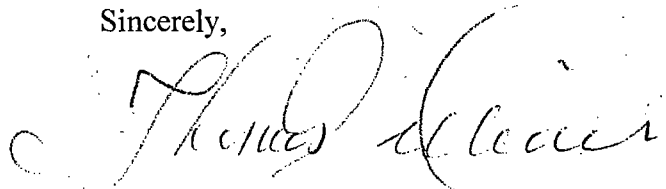
consent for access for an authorized BNSF representative's signature. Please arrange for this consent for access to be signed and return it to Mr. Faryan at:

> Steven Faryan
> Superfund Division, SE-5J
> 77 West Jackson Boulevard
> Chicago, Illinois 60604

as soon as possible.   If we do not hear from you or another BNSF representative, we may treat your failure or omission to respond as a denial of consent, and we would evaluate the alternatives available to us, which include commencing a civil action for access.

       You are welcome to contact Mr. Faryan at (312) 353- 9351; you or BNSF's legal counsel are also welcome to contact me at (312) 886-0814, or at williams.tom@epa.gov. Please note that I will be away from the office the week of December 24th, but I expect to return on January 2, 2013 and would be pleased to discuss this matter with you then. Thank you for your cooperation.

Sincerely,

Thomas M. Williams
Associate Regional Counsel

Enclosures

cc: Steven Faryan (SE-5J)

CONSENT FOR ACCESS TO PROPERTY

Name: _____

Title: _____

Location of Property: Railroad corridor east of and adjacent to 947 West Cullerton Avenue, at intersection with South Sangamon, Chicago, Illinois

I consent to officers, employees, contractors, and authorized representatives of the United States Environmental Protection Agency ("U.S. EPA") entering and having continued access to the property, at the address identified above for the purpose of conducting a site assessment, including:

Conducting a visual inspection of the property;

Taking photographs of the property; and

Taking surface and depth samples of soils at the property.

I realize that these actions taken by U.S. EPA are undertaken pursuant to its response and enforcement responsibilities under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. §§ 9601 *et seq*.

This written permission is given by me voluntarily, on behalf of myself and all other co-owners of this property, with knowledge of my right to refuse and without threats or promises of any kind.

_____   _____
Date   Name